

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

\_\_\_\_\_  
BETHEL KELLER-BRITTLE,  
STEVEN DEBOLD, RICARDO  
JEAN, and DANIEL MEDEIROS,

Plaintiffs,

v.

COLLECTO, INC. d/b/a EOS,  
PAUL E. LEARY, and  
TOD DILLON,  
Defendants.  
\_\_\_\_\_

Civil Action No. 18-11836

**JOINT MOTION TO APPROVE SETTLEMENT**

The Parties submit this joint motion to approve their proposed settlement of Plaintiffs' claims. For the reasons set forth below, the Parties respectfully request that the Court approve a settlement of Plaintiffs' individual claims.

1. The Court issued a ruling granting in part Plaintiffs' Motion for Preliminary Collective Certification of an Opt-In Class under the Fair Labor Standards Act (Dkt. # 16). The Court's opinion limited the preliminary class to only those employees who worked for Defendants in Massachusetts.
2. Following the ruling, Defendants produced to Plaintiffs' counsel a class list of only 107 potential class members, as well as a detailed damage analysis.
3. The damage analysis confirmed that, were the Court to find liability (which Defendants contest), two of the named plaintiffs suffered no damages, and that the other two suffered at most \$409.70 and \$54.96 in damages respectively.
4. Without conceding liability, Defendants' damage analysis shows just over

\$6,000.00 in damages for the entire class, carrying an average damage amount of just \$56 per person, and also that many class members suffered no damages at all.

5. “Opt in” FLSA classes have an extremely low participation rate (by most analyses less than 15%). By that standard, less than \$1,000 would likely be at issue were this case to proceed. This amount likely exceeds just the out-of-pocket administrative costs of proceeding on a class basis.

6. Given the typical extremely low rate of participation in “opt in” FLSA classes, the relatively minor damages in the case, and the attorney fees and Court resources that would be necessary to pursue the matter on a class basis, counsel to the Parties engaged in an effort to resolve the matter on an individual basis.

7. The Parties have now agreed to a settlement contingent on the Court’s approval. See Singleton v. AT&T Mobility Services, LLC, 146 F. Supp.3d 258, 260 (D. Mass. 2015) (settlement of FLSA claims requires court approval) (Burroughs, J.).

8. The settlement calls for a payment of twice the damages suffered by one of the named plaintiffs (\$819.40), and \$500 to each to the remaining named class members – a number exponentially higher than each of their damages.

9. Additionally, Defendants will pay counsel to Plaintiff less than \$13,000 in attorney fees and costs (approximately \$1,150.00). This amount represents less than 1/3 of the lodestar amount.

10. In the event that the Court believes it necessary, the Parties can submit the full settlement agreement to the Court.

11. The Parties note that this settlement will in no way prejudice other claims Plaintiffs may have against Defendants because the release is specific to the narrow issue

alleged in the Complaint.

12. Additionally, the settlement will in no way prejudice other potential plaintiffs. Unlike a Rule 23 class, under the FLSA “‘conditional certification’ does not produce a class with an independent legal status, or join additional parties to the action.” Genesis Healthcare Corp. v. Symczyk, 569 U.S. 66, 77 (2013).

13. Accordingly, this settlement in no way precludes other potential plaintiffs from bringing their own actions against Defendants.

WHEREFORE, the Parties respectfully request that the Court approve the settlement of this action on an individual basis.

Dated: March 22, 2019

Respectfully submitted,

PLAINTIFFS BETHEL KELLER-  
BRITTLE, STEVEN DEBOLD, RICARDO  
JEAN, and DANIEL MEDEIROS,  
By their Attorney

/s/ Josh Gardner  
Josh Gardner (BBO No. 657347)  
Nicholas J. Rosenberg (BBO No. 657887)  
GARDNER & ROSENBERG P.C.  
One State Street, Fourth Floor  
Boston, MA 02109  
Tel: 617-390-7570  
josh@gardnerrosenberg.com

DEFENDANTS COLLECTO, INC. PAUL  
E. LEARY, and TOD DILLON,  
By their Attorney,

/s/ Douglas Hoffman  
Douglas Hoffman (BBO No. 640472)  
JACKSON LEWIS P.C.  
75 Park Plaza, 4<sup>th</sup> Floor  
Boston, MA 02116  
Tel: 617-367-0025  
hoffmand@jacksonlewis.com

**Certificate of Service**

I, Josh Gardner, hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Josh Gardner